

TOWN OF NEW WINDSOR

ZONING BOARD

May 9, 2011

MEMBERS PRESENT: MICHAEL KANE, CHAIRMAN
 PAT TORPEY
 FRANCIS BEDETTI
 RICHARD HAMEL
 HENRY SCHEIBLE

ALSO PRESENT: ANDREW KRIEGER, ESQ.
 ZONING BOARD ATTORNEY

NICOLE JULIAN
ZONING BOARD SECRETARY

REGULAR MEETING:

MR. KANE: I'd like to call the Town of New Windsor Zoning Board of Appeals May 9, 2011 regular session to order please. There are actually no minutes to accept this evening so we'll bypass that.

PRELIMINARY MEETINGS:

EDWARD & JACQUELINE TURENCHALK (11-12)

MR. KANE: Tonight's first preliminary meeting Edward and Jacqueline Turenychalk variance for an existing 20 foot by 20 foot side deck. A variance of 27 feet side yard and 19 feet total for both side yards are required at 149 Riley Road in an R-4 zone. What you want to do is state your name and address, speak loudly enough for this young lady over here to hear you. In New Windsor, we hold two meetings, one's a preliminary meeting so we can get a general idea of what you want to do and make sure that you have enough information to give us to make a decision. And then by law in New York State everything has to be done at a public meeting so the second meeting will be very similar to this except you may have some neighbors present who have questions or whatever. So tell us exactly what you want to do.

MR. TURENCHALK: My name is Edward Turenychalk, 149 Riley Road. I'm just requesting a variance to get the C.O. on a pre-existing deck. We purchased the house back in 2002 not realizing there was no C.O. for the deck and upon looking at perhaps selling the house real estate agent pointed out there's no existing C.O. for the deck so wanted to get that squared away.

MR. KANE: You purchased the house in 2002 and the deck was existing at the time?

MR. TURENCHALK: Exactly.

MR. KANE: Any idea how long the deck's been up?

MR. TURENCHALK: No idea.

MR. KANE: To your knowledge, any cutting down of substantial trees or vegetation in the building of the deck?

MR. TURENCHALK: No.

MR. KANE: Has it created any water hazards or runoffs?

MR. TURENCHALK: No.

MR. KANE: Are there any easements through the property where the deck is?

MR. TURENCHALK: No.

MR. KANE: Any right-of-ways through that?

MR. TURENCHALK: No.

MR. KANE: The deck itself, have you had any complaints formally or informally about the deck?

MR. TURENCHALK: No.

MR. KANE: The size and nature of the deck similar to other decks in your neighborhood?

MR. TURENCHALK: Yeah.

MR. KANE: Okay, further questions?

MR. TORPEY: Excuse me, Mike, which deck are we talking about, the patio?

MR. KANE: This one, the whole thing is considered the deck. You got pictures over there?

MR. TORPEY: Yeah, but there's another one on the other side.

MR. KANE: It's considered a deck wraps right around.

MR. TORPEY: You could fall onto the deck not off it.

MR. KANE: Yeah, I know.

MR. SCHEIBLE: Good question, what are we looking at, maybe I skipped right passed it, look at the picture here, are we talking about this or are we talking about this?

MR. TURENCHALK: I think the problem was with the other part.

MR. SCHEIBLE: You think? You must know.

MR. TURENCHALK: Yeah, that's too close.

MR. BEDETTI: Is this the side of the house?

MR. TURENCHALK: That's the side of the house, yes.

MR. BEDETTI: So this I'm assuming that this marker to the property line?

MR. TURENCHALK: Right, right.

MR. SCHEIBLE: The property line only goes out to this area right here.

MR. TURENCHALK: I took a rope and ran it along the property line.

MR. SCHEIBLE: So we're not discussing this, we're discussing this?

MR. KANE: Just the side.

MR. SCHEIBLE: You live there?

MR. TURENCHALK: Yes, the answer is yes.

MR. SCHEIBLE: Well--

MR. KANE: It's a side yard setback so it's a side we're looking at.

MR. SCHEIBLE: I'm getting ambiguous answers, when you say you believe so and you don't really--

MR. TURENCHALK: Well--

MR. SCHEIBLE: You still didn't give me an exact one which is being taken care of right here, I didn't get that answer.

MR. TURENCHALK: What's your question?

MR. SCHEIBLE: My question was is it here or is it here and you said you think it's this one.

MR. TURENCHALK: It's the one right there, yes.

MR. BEDETTI: Now this is what the back of the house?

MR. TURENCHALK: That's the back.

MR. BEDETTI: Talking about the side yard?

MR. TURENCHALK: Yes, too close.

MR. BEDETTI: I assume these poles here?

MR. TURENCHALK: Yes, just taken from like--

MR. BEDETTI: This must be the side.

MR. TURENCHALK: Yes.

MR. KANE: You have 13 feet existing?

MR. TURENCHALK: I think that's what we measured off.

MR. KANE: How far, how close is the home on that side to your neighbor's home to the property line approximately?

MR. TURENCHALK: I'd say about another 40 feet at least.

MR. KANE: He's 40 feet off the property line on that side?

MR. TURENCHALK: Yes.

MR. KANE: Okay.

MR. SCHEIBLE: Did you build either of the two since you have been living in this house?

MR. TURENCHALK: No, everything was pre-existing.

MR. SCHEIBLE: Everything was pre-existing?

MR. TURENCHALK: Yes.

MR. SCHEIBLE: When you got the C.O. at that time?

MR. TURENCHALK: I didn't get a C.O. that's the issue.

MR. SCHEIBLE: So you just made a purchase through the bank?

MR. TORPEY: Paid cash?

MR. TURENCHALK: No, I guess it's something the lawyers did.

MR. SCHEIBLE: You must of known what you were buying at the time.

MR. TURENCHALK: Yes, I wasn't aware when I was buying

the house was my first house, I wasn't aware I needed a C.O. for the deck.

MR. KANE: And normally under those circumstances if the lawyers don't catch it going in we see it all the time since then it's the banks that usually catch everything that's on the property.

MR. SCHEIBLE: That's what I'm getting at.

MR. KANE: If they don't then it's like that's why they end up here sooner or later. Any further questions at this time?

MR. BEDETTI: Which one of the pictures shows the other side of the house?

MS. JULIAN: That's total of both yards, the other side doesn't matter.

MR. BEDETTI: I was just wondering. I'm assuming that the other side is a sufficient distance?

MS. JULIAN: Yes.

MR. SCHEIBLE: That was my question is this considered a deck or is this considered a patio and since we're below deck here what are we talking about here, Andy, can you?

MR. KRIEGER: Was there a denial issued by the building inspector?

MS. JULIAN: Yes.

MR. KANE: That's the only way they get in front of us. If you look at this picture right here in the front if that's six inches right in there they are going to consider it a deck as absurd as that sounds, second to last picture if you have it over there that's the only thing that makes sense to me.

MR. KRIEGER: You have basically two choices at this point. You can either send it back to the building inspector for clarification since they have decided not to have somebody at the meetings or you can just process the variance as usual and reflect that concern in the decision. Years ago when the building inspector used to come to the meetings it was fine, he'd be sitting right there and say Mike, what's the story and

he would tell you or he'd certainly have it by the next meeting.

MR. KANE: Let's do it this way, let's set it up for a public hearing with either approval and interpretation that it is a considered a patio depending on our feedback from the building inspector we'll ask you to get in touch with the building inspector and tell us why is that considered a deck. If the rules state it needs to be more than six inches off the ground or whatever it is we need to know what those specifics are and if that's not the case and we don't need to do the interpretation as it's going that way then we'll proceed with the variance as requested and make a judgment on that so we'll just get some more information.

MR. KRIEGER: I agree with everything the chairman has said but when you set it up for a public hearing set it up for an interpretation or variance so he doesn't have to come back again whichever way it works out.

MR. KANE: Depending on the information we get from the building department this way it doesn't delay him and we can proceed from there.

MR. BEDETTI: Now are we in fact making that determination or is the building inspector?

MR. KRIEGER: If it's an interpretation, the zoning board is making that interpretation.

MR. KANE: What the building inspector is going to give us is his reasoning behind why they consider it a deck and not a patio so we understand what they are looking at.

MR. KRIEGER: The reason they give you as opposed to what we give you we didn't want to decide, it's too tough for us but they won't bother to tell you what it is, what they are doing.

MR. TORPEY: Might not even have to be here.

MR. KANE: Would you give me a call when you find out?

MR. JULIAN: Yes.

MR. KRIEGER: By the way, Pat, you raise a good point with respect to that it's not fair to penalize the

applicant as an expense in sending out the notices.

MR. TORPEY: If you looked up deck, what does deck stand for?

MR. KRIEGER: If his judgment is whoever went out and looked at it that it is not right that it should be considered a patio he doesn't need to be in front of us so he wouldn't have to come to the public hearing so we'll notify everybody under those circumstances.

MR. KRIEGER: I would think that the fair thing to do would be find out that from the building department before the applicant has to spend moneys.

MR. KANE: Right, that's what we're going to do.

MR. SCHEIBLE: When did the building department become involved in this with your attempting to--

MR. TURENCHALK: Yes.

MR. SCHEIBLE: So you had to get a--

MR. TURENCHALK: That's what my realtor said.

MR. SCHEIBLE: A C.O. for it?

MR. TURENCHALK: Yes.

MR. SCHEIBLE: Does the one deck have a C.O.?

MR. TURENCHALK: I don't know what has a C.O. and what doesn't.

MR. SCHEIBLE: Because I don't want you to have to come back.

MR. TURENCHALK: For another C.O. for the back or side pieces?

MR. SCHEIBLE: Make sure you have a C.O. for everything.

MR. KANE: I'm sure if they went out and gave him a denial I shouldn't say sure but if they went out and gave him a denial they would have inspected the whole deck going all the way around and decided what fit and what didn't there so we'll definitely get a clarification, we'll give you a call.

MR. SCHEIBLE: These two decks so-called or patios right are they connected at all?

MR. TURENCHALK: Everything is connected, yes.

MR. SCHEIBLE: So that's cause it doesn't show that so they are connected, it's all one then?

MR. TURENCHALK: Yes, it's like three levels.

MR. KANE: On the deck since a continuous deck on the opposite side that we're not considering in the back how high off that, what's the highest point off the ground?

MR. TURENCHALK: Three feet.

MR. KANE: That deck it's all connected that's here?

MR. TURENCHALK: Yes.

MR. KRIEGER: But they have the situation the portion that makes it a deck he's not here for, he doesn't have to be here for.

MR. KANE: Since it's all continuously connected it all becomes one.

MR. KRIEGER: If you put a divider in then it wouldn't be connected, right.

MR. KANE: Let's set him up for a public hearing.

MR. BEDETTI: We determined here already that this is a deck.

MR. KANE: Yes, if it's connected all the way and it's three feet it's going to be a deck, we're going to double check it anyway but yeah if it's three feet on that side and it's a continuous deck going all the way.

MR. TORPEY: It's one whole deck.

MR. KANE: You got it.

MR. TURENCHALK: Should I go ahead and get to the building department and find out about the other parts?

MR. KANE: Just so you know that it is a C.O. on the

whole deck, this way if any problems come up that can be rectified before you come back for a public hearing. I would go and make sure that what we're talking about is a C.O. for the whole deck going all the way around and take it that way.

MR. TURENCHALK: Fire.

MR. KRIEGER: Generally when you do a sale, the title company the buyer has does a C.O. check at the end so you know it's not like you get a whole lot of advanced warning, check it out ahead of time, make sure.

MR. KANE: Common sense thing if they're considering it a deck because it's three feet on the one side then it should be one C.O. for the whole thing, let's make sure.

MR. TURENCHALK: Okay.

MR. KANE: So you don't, I'll accept a motion to set up a public hearing.

MR. BEDETTI: I will make a motion that we schedule a public hearing for Edward and Jacqueline Turenchalk for an existing 20 by 20 deck a variance for a side variance of 27 feet and total two side yards of 19 feet at 149 Riley Road in an R-3 zone.

MR. TORPEY: I'll second that.

ROLL CALL

MR. SCHEIBLE	AYE
MR. BEDETTI	AYE
MR. HAMEL	AYE
MR. TORPEY	AYE
MR. KANE	AYE

MS. JULIAN: I will call you in the morning with all the info that's for your mailings.

MR. TURENCHALK: Okay.

MS. JULIAN: I will check on the deck to see if it's all one.

MR. TURENCHALK: All right, thank you.

MR. KANE: Have a good evening.

PUBLIC HEARINGS:

ANNA SANCHEZ (11-10)

MR. KANE: Tonight's first public hearing Anna Sanchez for a variance for a proposed six foot vinyl fence which will project between the house and a street that's a corner lot located at 3102 Betsy Ross Ridge in an R-4 zone. Same as the preliminary.

MS. SANCHEZ: Anna Sanchez, 3102 Betsy Ross Ridge.

MR. KANE: Tell us exactly what you want to do.

MS. SANCHEZ: I just need a variance for the six foot fence on my home.

MR. KANE: Cutting down trees or substantial vegetation in the building of the fence?

MS. SANCHEZ: No.

MR. KANE: Creating any water hazards or runoffs?

MS. SANCHEZ: No.

MR. KANE: Is the fence, are any easements running through the area where the fence is going to be?

MS. SANCHEZ: No.

MR. KANE: And the reason for going for a six foot fence?

MS. SANCHEZ: Privacy.

MR. KANE: Is the fence you're on a corner lot so on one of the front yards it's going to extend passed the front of your house, is that going to inhibit the view of traffic coming in that street in any way?

MS. SANCHEZ: No, I brought two extra pictures.

MR. KANE: Which I will show to the other guys.

MS. SANCHEZ: From both sides.

MR. KANE: Coming up so you can see?

MS. SANCHEZ: It won't be extending out to the corner

anyway, it would be right before the electrical boxes so there's still full view of the street whenever the street is finished.

MR. KANE: No, see where the electric box is that's where it's going to extend out to?

MS. SANCHEZ: Before the electric box.

MR. KRIEGER: About how far from the roadway?

MS. SANCHEZ: I'm not good with that.

MR. TORPEY: Guess.

MS. SANCHEZ: Twenty, 15 feet, 20 feet.

MR. KANE: Fifteen feet looks about right.

MR. SCHEIBLE: The fire hydrant, so the fire hydrant would be behind the fire hydrant hopefully?

MS. SANCHEZ: It would be up here before the electrical box so you still have the view from Molly Pitcher then Betsy Ross whenever they decide to build even if you turn you won't have any side blindness or anything.

MR. SCHEIBLE: So within the electrical box and within the fire hydrant on your side?

MS. SANCHEZ: Yes, so start by the house the corner of the house.

MR. KANE: At this point, I will open it up to the public, ask if there's anybody here for this hearing? Seeing as there's not, we'll close the public portion of the meeting and ask Nicole how many mailings we had.

MS. JULIAN: On the 19th day of April, 2011, I mailed out 46 addressed envelopes with no written response back.

MR. KANE: Bring it back to the board for further questions.

MR. BEDETTI: I just have one, on your section of the road are there any other vinyl fences?

MS. SANCHEZ: Yes.

MR. SCHEIBLE: That was my question also this gentleman brought it up before are you setting a precedent, there's no neighbors or anything that have the same vinyl fence?

MS. SANCHEZ: Yes, across the street, the next two houses have, I mean, when you're entering Independence several corner homes, I'm not going to say several I know one that it is a corner lot and has a six foot vinyl fence that's why I questioned, I was like why can't you get one and when I called in they said I can do a variance.

MR. KANE: Further questions? I'll accept a motion.

MR. HAMEL: I will make a motion that we grant Anna Sanchez the variance as requested.

MR. TORPEY: I'll second it.

ROLL CALL

MR. SCHEIBLE	AYE
MR. BEDETTI	AYE
MR. HAMEL	AYE
MR. TORPEY	AYE
MR. KANE	AYE

MR. KANE: Motion to adjourn?

MR. HAMEL: So moved.

MR. TORPEY: Second it.

ROLL CALL

MR. SCHEIBLE	AYE
MR. BEDETTI	AYE
MR. HAMEL	AYE
MR. TORPEY	AYE
MR. KANE	AYE

Respectfully Submitted By:

Frances Roth
Stenographer